

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARTIN JONATHAN BATALLA VIDAL et al.,

Plaintiffs,

-against-

ORDER

16-CV-4756 (NGG) (JO)

ELAINE C. DUKE, Acting Secretary, Department of
Homeland Security, et al.,

Defendants.

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STATE OF NEW YORK et al.,

Plaintiffs,

-against-

ORDER

17-CV-5228 (NGG) (JO)

DONALD TRUMP, President of the United States, et al.,

Defendants.

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NICHOLAS G. GARAUFIS, United States District Judge.

On October 20, 2017, the U.S. Court of Appeals for the Second Circuit granted Defendants' motion for an emergency stay of discovery and record supplementation in this court pending Defendants' filing of a petition for a writ of mandamus. (USCA Order (Dkt. 91¹).) On October 24, 2017, that court extended the stay pending determination of Defendants' mandamus petition and deferred ruling on the petition "until such time as the district court has considered and decided expeditiously issues of jurisdiction and justiciability." (Order (Dkt. 42), *In re Duke*, No. 17-3345 (2d Cir.).) To facilitate its prompt consideration of these issues, this court directed the parties to file supplemental briefs as to whether it "lacks jurisdiction to consider the claims

¹ Docket citations refer to the docket in Batalla Vidal v. Duke, No. 16-4756 (E.D.N.Y.), except as otherwise noted.

raised in [the above-captioned cases] or why such claims are otherwise non-justiciable.” (Oct. 24, 2017, Order.)

In response to that order, Defendants have submitted a motion to dismiss that not only addresses the issues of jurisdiction and justiciability referenced by the Second Circuit’s and this court’s October 24, 2017, orders, but also argues that (1) the court should dismiss these cases for failure to state a claim and (2) the court should not issue a nationwide injunction, should the court conclude that Plaintiffs are entitled to relief. (Defs. Mot. to Dismiss (Dkt. 95).) Plaintiffs in Batalla Vidal v. Duke, No. 16-CV-4756 (E.D.N.Y.), have requested that the court clarify that they need not address Defendants’ additional arguments in their supplemental brief or, alternatively, that it grant them leave to file an overlong brief so that they may address those arguments. (Batalla Vidal Pls. Oct. 27, 2017, Ltr. (Dkt. 96).)

Consistent with the Second Circuit’s October 24, 2017, order, the court will first address issues of jurisdiction and justiciability. Considering Defendants’ additional arguments now would likely delay the court’s disposition of Defendants’ threshold arguments for dismissal, notwithstanding the Second Circuit’s instruction that the court decide those issues expeditiously. Accordingly, Plaintiffs need not address Defendants’ arguments, other than those pertaining to issues of jurisdiction and justiciability, in their November 1, 2017, supplemental briefs.

SO ORDERED.

/s Nicholas G. Garaufis

Dated: Brooklyn, New York
October 27, 2017

NICHOLAS G. GARAUFIS
United States District Judge